

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of     )  
DAVID FASKEN                             )

Appearances:

For Appellant:     Daniel Dibert and Vincent J. Mullins,  
                           Attorneys at Law

For Respondent:     A. Ben Jacobson, Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of David Fasken to a proposed assessment of additional personal income tax in the amount of \$9,256.94 for the year 1955.

The issue is substantially identical to that involved in Appeals of Robert L. and Margaret D. Platt, this day decided, namely, whether the tax imposed by the Canadian Income Tax Act on payments to a nonresident of Canada from a trust and an estate administered in Canada is a net income tax. The year in question is 1955 whereas in the Platt appeal the years in question were 1951 and 1952. There were no amendments to the Canadian Income Tax Act in the intervening years to change the character of the tax imposed on payments to a nonresident.

For the reasons stated in our opinion determining the Appeals of Robert L. and Margaret D. Platt, we have concluded that the Canadian tax was not a net income tax. The action of the Franchise Tax Board in **refusing** to allow Appellant to take the tax as a credit against the California personal income tax was, accordingly, **correct**.

O R D E R

Pursuant to the views expressed in the Opinion of the Board on file in this proceeding, and good cause appearing therefor,

Appeal of David Fasken

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board *on* the protest of David Fasken to a proposed assessment of additional personal income tax in the amount of \$9,256.94 for the year 1955 be and the same is hereby sustained,

Done at Los Angeles, California, this 17th day of November, 1959, by the State Board of Equalization.

Paul R. Leake, Chairman

Richard Nevins, Member

John W. Lynch, Member

George R. Reilly, Member

                     M e m b e r

ATTEST: Dixwell L. Pierce, Secretary